

**U.S. Department of Justice**

United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, New York 10007

November 20, 2007

BY FAX: (914) 390-4085

The Honorable Charles L. Bricant
United States District Judge
United States Courthouse
300 Quarropas St., Room 275
White Plains, NY 10601

RECEIVED
Application Granted
to Order
11-27-07
Charles L. Bricant
USJD

Re: *Duncan v. Sound Shore Medical Center, et al.*, 07 Civ. 3094 (CLB) (MJF)

Dear Judge Bricant:

I write to respectfully request a second adjournment of the mediation session, currently scheduled for December 4, 2007, in the above-referenced medical malpractice action. I request that the mediation session be rescheduled to another date convenient to the Mediation Office prior to January 31, 2008.

The Government is not yet in a position to discuss settlement in this case. Co-defendant Sound Shore Medical Center has not yet responded to the Government's discovery requests. And the Government is currently attempting to obtain full medical history information from the plaintiffs. Because the Government has not yet received adequate responses to its written discovery requests, no depositions or Rule 35 medical examinations have yet occurred.

In order to facilitate the mediation and move this case forward, the Government has been attempting to resolve these outstanding discovery issues with the parties. With respect to plaintiffs, some progress has been made; the Government recently received additional authorizations for release of medical information, which the Government can use to subpoena medical records from third parties. The Government anticipates filing a further request for an extension of the discovery schedule, or – in the event it is unsuccessful in obtaining adequate responses to its discovery requests – a motion to compel discovery. In any event, the Government does not yet have adequate information to meaningfully assess its settlement position.

Plaintiffs' counsel has consented to this request. Counsel for the Government attempted to contact counsel for co-defendant Sound Shore Medical Center regarding this matter, but did not receive a response.

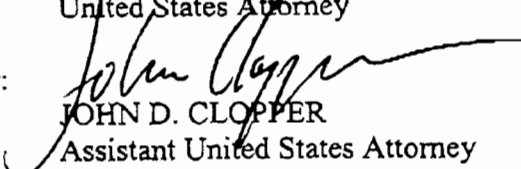
Thank you for your consideration of this request.

Respectfully,

MICHAEL J. GARCIA

United States Attorney

By:


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